

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

HISMAEL TAJOLLA-YNIGUEZ,

Defendant.

CASE NO. CR-10-6075-EFS

**ORDER GRANTING DEFENDANT'S
RENEWED MOTION TO DISMISS
INDICTMENT**

Before the Court is Defendant Hismael Tajolla-Yniguez's Renewed Motion to Dismiss Indictment. ECF No. 67. Defendant asks the Court to dismiss the Indictment because, although he pled guilty to the charged crime on January 6, 2011, ECF No. 51, he was thereafter deported to Mexico by Immigrations and Customs Enforcement prior to his April 2011 sentencing hearing.

Defense counsel, who was present for the scheduled April 15, 2011 sentencing hearing, moved for dismissal of the Indictment on behalf of Defendant. ECF No. 66. The Court denied the oral motion to dismiss but granted leave to renew the motion to dismiss in six months. ECF No. 65. Defendant now seeks dismissal of the Indictment on his own behalf. ECF No. 67. The U.S. Attorney's Office, which received electronic notice of the filing of this motion on April 25, 2014, has not filed an objection.

1 Federal Rule of Criminal Procedure 48(b)(3) permits the court to
2 dismiss an indictment if unnecessary delay occurs in "bringing a
3 defendant to trial." Here, Defendant pled guilty; however, there has
4 been over a three-year delay in sentencing Defendant because he was
5 inadvertently deported by the government prior to Defendant's
6 sentencing hearing. Under the circumstances, the Court finds
7 dismissal of the Indictment without prejudice is appropriate.

8 Accordingly, **IT IS HEREBY ORDERED:**

9 1. Defendant's Renewed Motion to Dismiss Indictment, **ECF No.**
10 **67**, is **GRANTED**.

11 2. The Indictment, **ECF No. 13**, is **DISMISSED WITHOUT PREJUDICE**
12 as to Defendant Hismael Tajolla-Yniguez.

13 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this
14 Order and provide copies to all counsel, the U.S. Probation Office,
15 and the U.S. Marshal's Office.

16 **DATED** this 15th day of May 2014.

17
18 s/Edward F. Shea
EDWARD F. SHEA
19 Senior United States District Judge
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